IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 9229 of 2004

Between:

Kavali Pochamma, W/o. Late Kavali Mallaiah,
R/o.H.No. 3-70, Kompalli (V), Quthbullapur (M),
Ranga Reddy District.

..... PETITIONER

AND

1 The Regional Joint Commissioner, Endowments Department, M.Z.III. Hyderabad.
2 The Assistant Commissioner, Endowments Department, Ranga Reddy District at Barkatpura, Hyderabad.
3 The Person - in - Management, Sri. Balaji Venkateswara Swamy Temple, Alwal Village, Malkajgiri (M), R.R. District.
4 The Commissioner, Endowments Department, A.P. Boggulkunta, Abids, Hyderabad.
5 The Government of A.P., Rep. by its Principal Secretary, Endowments Department, A.P. Secretariat, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly in the nature of a Writ of Certiorari calling for records in interim application No. 105/2004 in Appeal Petition No. 104/2004 on the file Regional Joint Commissioner, Endowments Department, M.Z.III, Hyderabad and quash the order dt. 12-5-2004 dismissing the interim application No. 105/2004 in Appeal No. 104/2004 as illegal, and against the order dt. 10-2-2004 of this Hon'ble Court in W.P. No. 2294/2004 and direct him to entertain and dispose the main appeal petition No. 140/2004 on merits after due enquiry and consequently set- aside the notification dt. 17-5-2004 of the 3rd respondent temple to sell the petition schedule land i.e., agricultural land admeasuring Acre 3-9 gts in

sy.No. 148 of Kompalli Village, Quthbullapur Mandal, R.R. district on 3-6-2004.

Counsel for the Petitioner: MR.U.S.R.MURTHY

Counsel for the Respondent Nos.1,2,4 & 5: GP FOR ENDOWMENTS

Counsel for the respondent No.3: Ms S.Vijaya Kumari

The Court made the following Order:

Heard both the learned counsel and at their request, the writ petition itself is taken up for disposal.

Petitioner herein filed this writ petition, inter alia, assailing the orders rejecting the application filed seeking condonation of delay of 93 days in filing the appeal as against the rejection of the application for interim order on the file of Regional Joint Commissioner, Endowments Department, M.Z.III, Hyderabad.

The case of the petitioner is that having regard to the earlier round of litigation in this Court, there has been some delay in filing the appeal and therefore, the same requires to be condoned and the matter has to be considered on merits. The Appellate Authority did not find favour with the reasons shown by the petitioner and rejected the application filed for condonation of delay.

Having heard the submissions made on either side and on perusal of the material on record, it is seen that the petitioner is making claim before the Authorities below to declare her as landless poor under Section 82 of the Endowments Act 30 of 1987, which was rejected by second respondent, against which the petitioner filed appeal

before first respondent with delay. There is no dispute with regard to the fact that the petitioner approached this Court in Writ Petition No.8573 of 2003 and it is only after the disposal of the said writ petition, the petitioner filed the present appeal, for which there is delay of 93 days. In view of the fact that the petitioner has been pursuing her remedies one way or the other, I do not find any justification in rejection of the application filed for condonation of delay of 93 days in filing the appeal before first respondent. The Appellate Authority ought to have given an opportunity to the petitioner.

Accordingly, this writ petition is allowed and the application filed for condonation of delay of 93 days in filing the appeal shall stand allowed. First respondent is directed to dispose of the appeal, on its own merits, in accordance with law, after giving notice and opportunity to the petitioner. It is open to the petitioner to seek appropriate relief pending appeal. The Appellate Authority shall disposal of the appeal within a period of one month from the date of receipt of a copy of this order. No costs.

30—09—2004.

Stv/-

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this THURSDAY the thirtieth day of September, Two Thousand Two Hundred and Four.

Assistant Registrar

To

1 The Regional Joint Commissioner, Endowments Department, M.Z.III.

Hyderabad.

2 The Assistant Commissioner, Endowments Department, Ranga Reddy District at Barkatpura, Hyderabad.
3 The Commissioner, Endowments Department, A.P. Boggulkunta, Abids,

Hyderabad.
4 The Government of A.P., Rep. by its Principal Secretary, Endowments

Department, A.P. Secretariat, Hyderabad.

5 Two C.Cs. for the Government Pleader for Endowments, High Court Buildings, A.P. Hyderabad, (OUT).

6 Two C.D.Copies.